

**WILLIAMSBURG CITY COUNCIL  
JANUARY 12, 2006  
MINUTES**

The Williamsburg City Council held its regular monthly meeting on Thursday, January 12, 2006, at 2:00 p.m., in the Council Chambers of the Stryker Building.

**ATTENDANCE**

Present were Ms. Zeidler, Messrs. Haulman, Scruggs, Chohany and Freiling. Also present were City Manager Tuttle, City Attorney Phillips, and City Clerk Crist.

Staff Attending: Assistant City Manager Miller, Economic Development Director DeWitt, and Department Heads Nester, Serra, Weiler, Yost, Clayton, and Hudson.

**CALL TO ORDER**

Mayor Zeidler called the meeting to order.

**COUNCIL MINUTES**

*Mr. Scruggs Moved Approval of the Minutes of December 5 and December 8, and Special Meetings of December 15, 2005 and January 4, 2006. The Motion was Seconded by Mr. Freiling.*

*Recorded Vote on the Motion:*

*Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany*

*No: None*

**MATTERS OF SPECIAL PRIVILEGE**

**Excellence in Service to Williamsburg Presented to Major Jay Sexton, Williamsburg Police Department**

Mayor Zeidler said it was an honor and privilege to present this award. This recipient has been chosen by his colleagues to be recognized for strong service to the city. She asked Major Sexton to join her at the podium, where she read the recognition outlining his 23 years of service to the city and presented the Service Award plaque.

Major Sexton thanked Council for the award—it was special to him. Williamsburg is a very special place and he felt blessed to work for the city. He thanked his family and his fellow employees for their support and for the nomination.

**Revolutionary City, presentation by John Bacon, Senior Vice-President, Colonial Williamsburg Foundation**

Mayor Zeidler welcomed Mr. Bacon.

**Mr. Bacon, Vice-President of the Colonial Williamsburg Foundation**, appreciated the privilege to discuss the plans for the Revolutionary City Program. He introduced his colleagues Mr. Rex Ellis, Vice-President of the Historic Area and Mr. Jim Horne, Director of Historical Research and the Rockefeller Library, present in the audience. Mr. Bacon said that research has found that guests want more interactive, relative, educational and enjoyable programming. Starting in March, Colonial Williamsburg would like to begin a new program.

The “Revolutionary City” will be a spontaneous real time experience that will transport visitors to Williamsburg during the American Revolution period years 1774-1781. For the first time, Williamsburg at war will be portrayed for guests. The program will be held on Duke of Gloucester Street at the East end of the Historic Area, bounded by the Capitol, Botetourt, Francis and Nicholson Streets, and will be similar to outdoor street theater. It will be staged weekly for two consecutive days from 2:30 to 4:30 p.m. Managed access is desired to make the presentations free of interruptions. A Good Neighbor Pass, William and Mary college student ID, or CWF general admission ticket will provide entrance. The programming goal is to bring the streets of Williamsburg alive--it will be dramatic and lasting, based on historical research, and it will be a unique American story presented where it occurred. He noted that history returned the inauguration to Williamsburg this coming weekend. CWF wants to bring its history alive in new and dramatic ways. A Special Events Permit Application will be submitted to the City Manager for permission to conduct this new program in March. The Foundation looks forward to continuing discussions with Council and the City Manager.

Council members, Mr. Bacon, Mr. Ellis, and Mr. Horn discussed the particulars of the program. Mr. Ellis spoke to the integrity and quality of the programming and being able to control the theatrical experience. Mr. Horn explained there would be a 30 minute set up time before the two-hour program. Visitors in the Revolutionary City at the time of program will not be asked to leave, but enticed to purchase a ticket for additional programs.

Mr. Haulman noted that this is not the first time that Colonial Williamsburg has made a request of this type to the city. In 1974, Duncan Cocke asked Council to close off the Historic Area; that request was referred to the Planning Commission for study. Again, in 1996, there was another request. Mr. Haulman concluded that this is different from those requests—this is a request for a temporary closing to enhance the Foundation’s educational mission. He was convinced by the supportive Editorial in the Daily Press that this request should move forward. Mr. Chohany hoped to hear more operational details with the application process and he would not want to have visitors feel encumbered by being part of the program. Mr. Bacon did not foresee any issues with other exhibitions on Duke of Gloucester Street.

Mr. Scruggs said that in 1976, it was tough to close access to Duke of Gloucester Street, but today, looking back, it was the best solution. He hoped that the application will further explain the programming and operational issues. This will be the ultimate “virtual reality” and a great experience for our visitors. The Foundation is trying to place people in the 18<sup>th</sup> Century. He was impressed with the proposed program. There are challenges with change, and he appreciated the time and energy put into this effort.

Mr. Bacon said that information about the Revolutionary City will be available on the CW website in the future, and he encouraged people with questions to contact him, Mr. Ellis, or Mr. Horn. During the program rehearsal stage, friends and the colleagues in the area will serve as a focus group for the program. There will be more life on the street than what has been in decades.

Mayor Zeidler clarified that the 1974 proposal was to fence off the Historic Area and then another proposal in, as she recalled, was 1998. She remembered that the City Attorney made it clear at that time that City Council could not legally close off the Historic Area. Council will not entertain that idea and will not do something illegal. This is a different kind of request.

She asked about the historical research and accuracy behind the theatrical performance planned.

Mr. Ellis, a historian, said that Colonial Williamsburg believes that there is a direct connection between what happened 230 years ago and citizens today. He explained that CW wants to make the story of Williamsburg in the Revolution better understood. The reality of the performance will get the message through. They want to get the message across that ordinary people can shape events. Colonial Williamsburg is in hopes that the local community will support this program.

Mayor Zeidler thanked the gentlemen. The City Manager will look forward to receiving the Special Events Permit Application.

Council members concurred that the agenda be reordered to allow citizens to comment about the Revolutionary City.

**Henry E. Coleman, 606 College Terrace**, spoke in opposition to closing the street. He appreciated the work of Colonial Williamsburg Foundation. He has seen many of this type of program proposed. The city has taken tax dollars to support this historic street and all Americans should have access to the street free of charge. It is good that CW wants to create a program about history and preserve our heritage, but it is going in the wrong direction to close the street. Freedom will be restricted on a public street. This needs to be reconsidered—this is everyone's street, not a select group.

**Alicia Diehl, 900 S. Henry Street**, was concerned about the legality of restricting public access and questioned if this fell under the description of a special event. Should there be a termination date? She hoped that Council will think about restricting public access to a public street. Will this Special Events Permit set a precedent for other groups? Understanding our history is so important, but she was disturbed about the legal aspects of closing a public street. She asked that Council give this a lot of thought.

**Jane Rackley, 627 Powell Street**, urged Council to hold a public hearing on this matter to receive public input.

**Dick Schreiber, President and Chief Executive Officer of the Williamsburg Area Chamber of Commerce and Convention and Visitors Bureau**, represented the 925 members who endorse the Revolutionary City as something important for this community. The city's Draft Economic Development Strategy identifies CW activities as a vital part of the economic climate of the city. It is a challenge to develop programming to educate and excite in a new way. The RC is a new way. On behalf of those interested in the economic condition that allows for low property taxes in the city and provides the foundation for many of our businesses, he believes, and the Chamber believes, that it is vital to adapt ourselves to the needs of the economic engine that drives this community. It exists to educate people, not make a profit. Change is not easily accepted, but the Chamber urged Council to assist CW as they attempt to make this change for the benefit of the entire city.

**Mr. Coleman** added that the College of William and Mary is also a great motivator, in salary and drawing income into the community. Don't try to make us feel that if we don't support this

initiative, or that we do not support CW. The community should not feel the obligation that without CW there would be no Williamsburg. The college pulls people to this community, where education is the main product.

**Marilyn Hanson, 160 Southern Hills**, commended CW for wanting to bring life back onto the Duke of Gloucester Street. She asked CW to consider a different time of day for the program. A lot of the tour groups visit in the morning. Also, open the entire program completely onto the entire street, include all the buildings, and look for another way to get revenue.

**Demetrious Costas, 1336 N. Mount Vernon Avenue**, a student at William and Mary, and a history buff. Restricting access to the Duke of Gloucester Street would be a big lapse. Many students jog or bike the street. How will this be monitored during the program? He objected to restricting the street to all citizens and visitors—it may be illegal and unconstitutional.

City Attorney Phillips addressed the Special Event Permit process. The permit will be issued for a limited period of time so that the city and CW can see how the project will function. If it is to continue, a franchise would have to be requested of the city, requiring a public hearing. Colonial Williamsburg would have to apply for the franchise and submit a specific proposal. Council could issue the franchise for an appropriate time, not to exceed 40 years.

Mayor Zeidler said that Council will invite public comment again at the February Work Session. She thanked the CW representatives for the information provided and citizens for their comments.

## **PUBLIC HEARINGS**

### **PCR #05-033: Request of Yankee Candle for a Special Use Permit to Use 2180 Richmond Road As An “Outdoor Waiting Area”**

Reference for this item was Mr. Nester’s report dated January 12, 2006. Mr. Nester reviewed the information provided in his report. Yankee Candle is proposing to use 2180 Richmond Road as an outdoor waiting area. The property was proposed as one of three future restaurant sites, but since the property will not be developed for at least one year, the candle company is proposing to use the future building pad as an outdoor waiting area for restaurants in the immediate area. Two designs for the waiting area were shown, with Option 1 preferred by staff. The Planning Commission held a public hearing on this item and recommended Council approve the outdoor waiting area, Option 1, with one contingency.

Mayor Zeidler opened the public hearing.  
No one wished to speak. The hearing was closed.

Council members and Mr. Nester discussed the proposed request. Mr. Nester clarified that the three restaurants were permitted by right. Mr. Haulman noted that this site will visually look better with restaurants in front of the Candle Factory; however, this is a good temporary option as the property develops. Mr. Nester explained the layout and function of the waiting area. A traffic study will be done in the summer in compliance with the original plan for Yankee Candle and a traffic signal considered. Mr. Scruggs was pleased that the property owner is willing to make these improvements to this property and noted he would

be agreeable to dropping the two year sunset clause. Mr. Freiling thought economics would be the motivator for the property owner to build; not any terms of use that the city would impose. The city would be fortunate if other property owners would be willing to make this similar investment to unimproved property. Staff has worked to encourage attractive green space along Richmond Road. He understood Mr. Haulman's point about breaking up the massing of the building.

Mr. Nester said that part of this area could be converted to parking space providing the landscape open space requirement were met, but it would be a change to the Special Use Permit and they would have to come back to the city with a revised site plan for consideration by the Planning Commission and Council. Mr. Freiling said that he would be opposed to any additional parking on this site.

Mr. Scruggs asked that staff relay to the applicant Council's appreciation for going through this process and of Council's interest in the future commercial development of the property.

*Mr. Scruggs Moved That City Council Approve the Special Use Permit for the Yankee Candle Outdoor Dining Area at 2180 Richmond Road, Option 1 or Option 2, for a Two Year Time Period Expiring on December 31, 2007. The Motion Was Seconded by Mr. Chohany.*

*Recorded Vote on the Motion:*

*Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany*

*No: None*

**PCR #05-034: Request of L&B Quarterpath, LLC, to rezone 13.57 acres along Quarterpath Road from RS-2 to RM-1 Conditional, Proposed Ordinance #06-02**

**PCR #05-035: Request of L&B Quarterpath, LLC, to amend the RM-1 District to allow the reduction of front yards in addition to side and rear yards with a special use permit in order to allow an innovative or creative layout of dwellings, Proposed Ordinance #06-03**

**PCR #05-036: Request of L&B Quarterpath, LLC, for a special use permit for the Village at Quarterpath for reduced front, side and rear yards.**

Reference for these items was Mr. Nester's report dated January 12, 2006. Mr. Nester said that L&B Quarterpath LLC is proposing "The Village at Quarterpath" on Quarterpath Road on the site of the former Rose's Trailer Court. Using a Powerpoint presentation, he said this project would consist of 41 single-family homes and 36 townhouses. The current Comprehensive Plan states this area is appropriate for redevelopment. The draft of the 2005 Comprehensive Plan, which has not yet been approved by Planning Commission or City Council, proposes this area as Medium Density Multifamily Residential land use (8 units/net acre).

Three things are requested: a rezoning from RS-2 to RM-1 Multifamily, 8 units an acre, with proffers which will become a part of the rezoning; a text amendment to amend the RM-1 district to allow a reduction of front yards in addition to side and rear yards; and the special use permit for the reduced yards and approval of the Preliminary Plat.

Mr. Nester reviewed the proffers offered as part of the rezoning.

1. Development generally in accordance with the Village Plan entitled "The Neighborhood Plan, The Village at Quarterpath, Williamsburg", dated November 18, 2005.
2. Participation in the cost of the Quarterpath Road improvements, estimated to be \$2,000,000 (including \$350,000 for improvements to the Quarterpath Road/York Street intersection which is not a part of this proffer), as follows:
  - \$250,000 L&B Quarterpath LLC share of construction costs, plus one-half share of expenditures over \$1,650,000 with a maximum of \$200,000.
  - L&B Quarterpath LLC obligation to prepare plans for Quarterpath Road design (Quarterpath Improvements). The original proffer had an \$83,000 cap on this expenditure; the revised proffer has no cap.
  - Total obligation is a maximum of \$450,000, plus the design of the Quarterpath Improvements.

These proffers will be added to the following other funding sources:

- \$1,150,000 Riverside Proffer for Quarterpath Road construction and \$100,000 Riverside Proffer for Quarterpath Road/York Street traffic signal.
  - \$250,000 City share of Quarterpath Road improvements, \$250,000 City share of Quarterpath Road/York Street intersection improvements, and one-half share of expenditures over \$1,650,000 with a maximum of \$200,000. Total City obligation is up to \$700,000.
  - Up to \$2,400,000 (plus the design of the Quarterpath Improvements) is available for the Quarterpath Road improvements, which exceeds the current estimate of \$2,000,000:
  - Riverside – up to \$1,250,000
  - City – up to \$700,000
  - L&B Quarterpath – up to \$450,000 plus design of the Quarterpath Improvements
3. Establishment of a PPTA (Public-Private Transportation Act of 1995) private entity to construct the Quarterpath Road improvements. L&B Quarterpath will provide construction administration services for the PPTA at no additional cost. The original proffer said "construction management services", the revised proffers say "construction administration services." Construction administration services have been defined.
  4. Contribution of the dwelling unit located at 207 Quarterpath Road to Housing Partnerships, Inc. for relocation to a site designated by Housing Partnerships in the City.

Mr. Nester noted that the proposal does not prevent or promote the development of Quarterpath Road to Route 199. He reviewed the proffers that were offered for Quarterpath Road from the Riverside Development.

Mr. Nester reviewed the Planning Commission recommendations as follows:

PCR #05-034: Rezoning Request – 13.57 acres from RS-2 to RM-1 Conditional  
Planning Commission recommended to City Council that 13.57 acres located at 300, 301 and 309 Bassett Drive, and 207, 209, 301, 405 and 409 Quarterpath Road be rezoned from RS-2 to RM-1 Conditional, incorporating all of the terms and conditions of the attached Proffer Agreement, and as detailed in Proposed Ordinance #06-02.

PCR #05-035: Zoning Text Amendment to allow reduction of front yards

Planning Commission recommended to City Council that the zoning text for the RM-1 District be amended to allow the reduction of front yards in addition to side and rear yards with a special use permit in order to allow an innovative or creative layout of dwellings. This is detailed in Proposed Ordinance #06-03.

PCR #05-036: Special Use Permit and Preliminary Subdivision Plat for The Village at Quarterpath

Planning Commission recommended to City Council that the Special Use Permit for The Village at Quarterpath be approved for the following reduced yard requirements, as shown on the plan titled "The Village at Quarterpath, Site Plan Rezoning Submittal, Preliminary Site Plan, Rezoning and Special Use Permit Submittal," dated November 19, 2005, prepared by Wermers Development, Inc.:

1. Front yard – 10 feet. No encroachments into the 10 foot front yard are permitted except for steps and covered porches for townhouse units (8 foot maximum width, 5 foot encroachment into the front yard permitted).
2. Side yard – 5 feet. No encroachments into the 5-foot side yard are permitted.
3. Corner side yard – 8 feet. No encroachments into the 8-foot corner side yard are permitted.
4. Rear yard – 25 feet. Unenclosed porches, terraces, balconies and decks may extend 12 feet into the required rear yard. "Unenclosed" shall mean no side enclosure, other than railings, that is more than 18 inches in height, exclusive of screens.
5. Accessory building side yard – 3 feet.
6. Accessory building rear yard – 5 feet.

The special use permit is subject to the following conditions:

- a. Yard drainage. Because of the reduced yards approved by the special use permit, the development plan shall include detailed provisions for handling yard drainage. The City reserves the right to require a yard drain system to convey storm water from roofs and driveways into the storm water system for the subdivision.
- b. Finished floor elevation. No work on a new building or accessory building shall be approved to proceed above the foundation or slab until the zoning administrator has received a survey prepared by a land surveyor licensed to practice in accordance with Code of Virginia, §54-17.1, as amended, showing that the foundation or slab, as constructed, is located in accordance with the approved development plan, and has a finished floor elevation in accordance with the approved development plan.
- c. Grading. Prior to the issuance of a certificate of occupancy for any dwelling unit, there shall be written certification by an engineer or land surveyor licensed to practice in accordance with Code of Virginia, §54-17.1, as amended, that the final lot grading has been completed in substantial conformity with the approved development plan.
- d. Modifications. Modifications to the finished floor elevations and grading plan contained in the approved Development Plan shall require approval by the plat-approving authority.
- e. Notification of Quarterpath Park activities. Purchasers of houses in The Village at Quarterpath shall be advised of potential noise producing activities in Quarterpath Park and a notice to that effect shall be included in the Home Owner's Association documents. The language of the notice shall be approved by the City Attorney.

Preliminary Plat (Master Plan)

Planning Commission recommended to City Council that the Preliminary Plat (Master Plan) for The Village at Quarterpath as detailed on the plan entitled "The Neighborhood Plan, The Village at Quarterpath, Williamsburg," dated November 18, 2005, prepared by Wermers Development; and on the plan entitled "Preliminary Site Plan, Rezoning and Special Use Permit Submittal,"

dated November 19, 2005, prepared by Wermers Development, Inc., be approved contingent upon the following:

1. Development in accordance with the approved special use permit
2. Resolution of engineering details for water, sanitary sewer, storm drainage and streets to the satisfaction of City staff.
3. Design and approval of a storm water management plan acceptable to the City as a part of the approval of the Development Plan for the subdivision. This may include off-site easements and drainage outfall channel improvements.

Council members and Mr. Nester discussed the possible undergrounding of wires on a portion of Quarterpath Road. It is very expensive and Planning Commission pointed out that it would be less expensive to put the wires underground with the redevelopment, but too expensive to require of the developer. Regarding the density for this project, Mr. Freiling noted that the draft Comp Plan has not been seen or approved by Council. Mr. Nester addressed the density of the project and density of the former Housing Authority plan for this property, the new requirement for surveyed finished floor elevations, and the requirements of the ChesBay Regulations and Sedimentation/Erosion Control standards.

Mayor Zeidler opened the public hearing on the three items.

**Barry DuVal, representing L&B Quarterpath**, commended city staff for their work and cooperation over the past several months. He provided background information about Wermers Development and other developments/redevelopments they have done in Norfolk, Chesapeake, and on the Peninsula. They will develop 5.7 units per acre consistent with the land use for the Quarterpath property. This will be a traditional neighborhood design and the prices will be \$500,000 for single family and mid-\$300,000 range for townhouses. The "green" will be used for a gathering place, pedestrian friendly, and this will be a product for the city to be proud to have. Garages will be in the back of the homes. The homes proposed will be more colonial revival in style, constructed of Hardiplank and brick. The home at 207 Quarterpath Road will be donated to Housing Partnerships.

**Albert Woodall, Housing Partnerships**, said that they are working with a previous Roses Trailer Park elderly resident to move her into the house from 207 Quarterpath after it is moved to a new lot in the city and offered to her at an affordable price. He appreciated the cooperation of Wermers development.

Mr. DuVal said that they have offered to come back to the city for improvements to Quarterpath Road. If they receive approval today of the land use plan, they must go back to the Planning Commission for review and approval of the site plan and back to City Council with a proposal to improve Quarterpath Road and a financial formula for the improvement. They understand the Public/Private Partnership. He noted that the property owner, Mr. Paparis was present.

No one else wished to speak. The public hearing was closed.

Mr. Haulman was pleased with this development that works for the city, developer, and community as a whole. Mr. Tuttle responded to Mr. Haulman that a preliminary estimate for undergrounding wires on Quarterpath Road received from Dominion Power was high. A



more detailed estimate will be obtained and options considered. Mr. Haulman thanked staff for their work on this time-intensive project.

Mr. Chohany was pleased with this project, but had a few questions. Mr. DuVal said that there will be a Homeowners Association in the neighborhood, but no restrictions on age, children, etc. Roads are proposed to be public, built to VDOT specifications and alleys private. A ten foot multipurpose lane for biking and walking will be installed on the Quarterpath Park side.

Mr. Scruggs was pleased with the relationship between the developer and staff. He addressed affordable housing and was disappointed that the Housing Authority project did not progress. The city is committed to affordable housing, and proportionately the city is high in affordable housing. He was disappointed that residents in the trailer park are no longer city residents. The value of land in the city is a challenge.

Mr. Freiling liked the layout and maximization of space with alleys in the back. He liked the green entry feature, but was less excited about the architecture. He encouraged the applicant to look to a more colonial revival, federal style for the single family homes. You will have a more attractive community and better selling product. He too was disappointed about the affordable housing and the city needs to look at what more can be done. He suggested that Council consider, when reviewing the Comprehensive Plan, what can be done to set property developers' expectations to improve the housing situation for people in lower paying jobs.

Mayor Zeidler said that this will be a good addition to the city.

*Mr. Scruggs Moved That Council Approve Proposed Ordinance #06-02, An Ordinance to Rezone Approximately 13.57 Acres Located at 300, 301, and 309 Bassett Drive, and 207, 209, 301, 405 and 409 Quarterpath Road from RS-2 to RM-1 Conditional, and Approved Proposed Ordinance #06-03, An Ordinance Amending the Code of the City of Williamsburg, Chapter 21, Zoning, RM-1 District, Section 21-192(4), Reduction of Yard Requirements, and Approve the Special Use Permit and Preliminary Plat (Master Plan) as Recommended by Planning Commission. The Motion Was Seconded by Mr. Haulman.*

*Recorded Vote on the Motion:*

*Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany*

*No: None* (SEE ATTACHED ADOPTED ORDINANCES #06-02 AND #06-03)

## **REPORTS**

### **Monthly Financial Statement**

*The Monthly Financial Report was received and ordered filed.*

Mr. Tuttle said that revenues and expenditures were on track with estimates for the year, and pointed out the sales tax revenues were down 3% from last year. Council members discussed the method of financial reporting. Mr. Haulman suggested that the Economic Development Manager prepare a brief analysis to explain the raw numbers as part of the monthly financial report. Mr. Tuttle asked Ms. DeWitt to do so and said that an ED page might be included in the reports.

### **Monthly Departmental Operating Reports**

*The Monthly Departmental Operating Reports were received and ordered filed.*

Mr. Tuttle said that next week, staff members will attend one/two days of training with ICMA's newly formed Virginia Performance Measurement Consortium. The new program will eventually change the city's performance measurements. Mr. Serra will report to Council in February.

### **Planning Reports**

#### **ARB Sign #05-042: Request of Capitol Landing Center, 944-952 Capitol Landing Road, to Locate a Freestanding Sign in the Public Right-of-Way**

Reference for the item was Mr. Nester's report dated January 12, 2006. Ms. Murphy explained that the Capitol Landing Center was located at Capitol Landing Road and Route 143, the small shopping center where the Department of Motor Vehicles is located. The Architectural Review Board approved the proposed replacement sign (shown by Powerpoint) with the condition that the sign be of opaque navy blue and white colors. Staff recommended approval with the five conditions outlined in the report. Ms. Terry Moore, owner of the property was present and indicated she has applied for the Sign Grant Program.

*Mr. Chohany Moved That City Council Approve the Request of Capitol Landing Center to Locate a Freestanding Sign in the Public Right-of-Way with the Following Conditions:*

- 1. A license being issued for five years from the date of approval, expiring on January 12, 2011, and which can automatically be renewed.*
- 2. Approval is granted for the applicant only, and shall not be transferable to any future tenant or business.*
- 3. A right-of-way permit must be obtained before installation of the sign.*
- 4. A certificate of insurance showing that there is in force commercial general liability insurance coverage on an occurrence basis insuring against all claims, loss, cost, damage, expense or liability from loss of life or damage or injury to persons or property arising out or relating to such sign. Such insurance shall be by an insurance company licensed to do business in Virginia acceptable to the City Manager and shall include the City as an additional insured. Such certificate of insurance shall provide to 30 days advance notice to the City prior to cancellation or modification of such policy. Said insurance shall be maintained in force at all times at the permittee's expense when the sign remains on public right-of-way and shall protect and save the City harmless from any and all claims or demands for damages by reason of any negligence of the sign hanger, contractor, sign owner, as well as the owner, tenants and occupants of the property to which the sign pertains and/or their respective agents; as well as by reason of defects in the construction of such sign and the maintenance of such sign including, but not limited to, damages resulting from the collapse, failure or combination of the sign or parts thereof.*
- 5. A bond with corporate surety, letter of credit or certified check must be submitted by the owner, approved to form by the City Attorney, to cover the cost of the removal of the sign and its supporting structures if the sign is not removed at the expiration of the time period for which it is authorized or if the sign is not maintained in accordance with Section 21-753 of the Zoning Ordinance. The validity period for the bond with corporate surety or letter of credit shall be the same as the time period*

*approved for the sign by City Council, and shall remain in effect until released by the City.*

*The Motion Was Seconded by Mr. Haulman.*

*Recorded Vote on the Motion:*

*Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany*

*No: None*

**Amend Ordinance #05-27, Regarding the Vacation of Williamsburg Avenue, Proposed Ordinance #06-01**

Council members received a copy of the proposed ordinance, correcting the property owners of the parcels vacated. Mr. Nester reported that the money for the street has been received by the city and the easement has been dedicated, so this is technical and legal issues. Council action is needed to approve the proposed ordinance. Mr. Phillips said that this ordinance supplants the former ordinance approved by Council. The previous ordinance contained incorrect information about exact property owners.

*Mr. Freiling moved That City Council Approve Proposed Ordinance #06-01, An Ordinance Vacating Williamsburg Avenue Between Second Street and Penniman Road. The Motion Was Seconded by Mr. Scruggs.*

*Recorded Vote on the Motion:*

*Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany*

*No: None* (SEE ATTACHED ADOPTED ORDINANCE #06-01)

**City Manager Reports**

**Amendment to City Code, Arts Commission, Proposed Ordinance #06-04**

Reference for this item was Mr. Tuttle's report dated January 5, 2006. Mr. Tuttle said that per the attached letter from Kyra Cook, Chair of the Williamsburg Area Arts Commission, the Commission requests City Council amend the City Code to bring the Code and the Commission's Bylaws into conformity. The substantive change in the Code would increase the Arts Commission membership from seven to nine members. The Code would continue to require that four members be city appointees. (The new Bylaws prescribe that of the remaining five members, four would be appointed by James City County and one by York County).

Kyra Cook, Chairman of the Arts Commission, was invited to explain the commission's request. Ms. Cook explained that since the commission was formed 25 years ago, its work has expanded. Thirty-four organizations are funded by the commission and more members are needed to help with the commission's work in the community.

*Mr. Freiling Moved That City Council Adopt Proposed Ordinance #06-04, An Ordinance to Amend and Restate Chapter 2, Article III, Division 4 of the Williamsburg Code. The Motion Was Seconded by Mr. Haulman.*

*Recorded Vote on the Motion:*

*Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany*

*No: None* (SEE ATTACHED ADOPTED ORDINANCE #06-04)

Mayor Zeidler asked Ms. Crist to advertise the vacancy on the Arts Commission.

**Refinancing of General Obligation Refunding Bond Series 2002—Utility Fund, Proposed Resolution #06-01**

Reference for this item was Mr. Tuttle's report dated January 5, 2006. M. Tuttle said this is the bond for the Royals property, of which the city is currently selling a portion. Mr. Serra explained that the principal balance is due January 15, 2006. However, SunTrust Bank is proposing to refinance this note for one year, with the interest rate reset monthly (currently 3.2%) and equal to 68% of the one-month LIBOR rate plus 22 basis points. The refinancing option provides flexibility with cash flow and reserves over the next year. Additionally, the absence of a prepayment penalty makes this an attractive alternative to using existing reserves at this time to pay off the Royals Property. Mr. Tuttle added that when the pending sale of a portion of Royals is complete, this debt will be paid off. Council members were pleased with this proposal.

*Mr. Freiling Moved That City Council Approve Resolution #06-01 – General Obligation Refunding Bond, Series 2006, and Authorize the City Manager to Finalize the Necessary Documentation and Close the Transaction with SunTrust Bank. The Motion Was Seconded by Mr. Haulman.*

*Recorded Vote on the Motion:*

*Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany*

*No: None (SEE ATTACHED ADOPTED RESOLUTION #06-01)*

**Redoubt Park Grant**

Reference for this item was Mr. Tuttle's report dated January 5, 2006. Mr. Tuttle reviewed the information provided in his report. Staff is recommending that the city submit the Grant Application for Historic Preservation Funds to the State for Redoubt Park. This 22 acre parcel is being donated to the city by Riverside Healthcare Association. On a Powerpoint slide he reviewed a map of a Master Plan of the park and amenities. The city's legislative representatives have been asked to support the application.

Mr. Tuttle and Council members discussed the parking location and surface treatment, funding/budgeting of the project, security and managed access, proposed "Indian" woodland trails in the park, interpretive signs, and the park as a tourist destination of civil war sites. Mr. Tuttle said that the tour guide (interpreters) regulations could be applied to Redoubt Park.

Mr. Phillips said that there are statutes to address vandalism and destruction of property that would apply to the park.

*Mr. Chohany Moved That City Council Authorize the City Manager to Submit a Grant Application for State Historic Preservation Funds to the Department of Historic Resources and to Senator Normant and Delegate Barlow for Support of An Amendment to the State Budget. The Motion Was Seconded by Mr. Haulman.*

*Recorded Vote on the Motion:*

*Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany*

*No: None*

Council members supported the grant application and hoped that it will move forward.

**Redoubt Park Agreement with Virginia War Museum Foundation**

Council members received a copy of the Memorandum of Agreement. Mr. Tuttle said that this agreement with the Virginia War Museum Foundation provides for the Foundation to assist the city in the interpretation and documentation of the park and the earth works. There is no cost involved, but allows for the Foundation to use the park for education activities.

Mr. Freiling suggested that it would be beneficial for a citizen with civil war history knowledge be involved in this project.

*Mr. Chohany Moved That City Council Authorize the City Manager to Enter Into An Agreement Between the City of Williamsburg and Virginia War Museum Foundation. The Motion Was Seconded by Mr. Haulman.*

*Recorded Vote on the Motion:*

*Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany*

*No: None*

**Airport Road Speed Limit, Proposed Resolution #06-02**

Council members received a copy of the proposed resolution. Mr. Tuttle said the purpose of this resolution was for Council to formally petition the Virginia Department of Transportation to lower the posted speed limit on Airport Road from 55 mph to 40 mph for its entire length. The road, located in York County, is narrow with no shoulders, trees close to the edge of the road, with twists and bends, and just recently, there was a fatal accident on the road. The resolution will be forwarded to the appropriate officials at the Residency, District and Central office levels of the Virginia Department of Transportation, to the State Police, to the Board of Supervisors of York County, and to the state legislator in whose district Airport Road is located.

*Mr. Freiling Moved That City Council Adopt Proposed Resolution #06-02, Airport Road Speed Limit. The Motion Was Seconded by Mr. Chohany.*

*Recorded Vote on the Motion:*

*Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany*

*No: None (SEE ATTACHED ADOPTED RESOLUTION #06-02 )*

**City Attorney Report**

**Royals Property—Second Contract Amendment**

Reference for this item was Mr. Phillips report dated January 11, 2006. Using a slide showing a Master Plan for the property, Mr. Phillips said that this is a proposed second amendment to the Contract under which the City has agreed to sell 70 acres of its Royals Property in York County to Fourth Centrum of Virginia, Inc. The contract requires that Fourth Centrum provide to the city a Development Plan. The City Engineer and Director of Public Works and Utilities have reviewed the plan and they are satisfied that the plan works and accomplishes the 20% impervious limitation.

He explained the proposed changes to the contract regarding:

1. Approval of the Site Layout for the Property;
2. Limits development of the residue tract retained by the city to 15% of the total land area;
3. Commits the city to cooperate in causing the main roadway leading from Mooretown Road through the 70 acres to the city's residue parcel to be dedicated to VDOT as a public street.

Mr. Phillips said that if Council is agreeable to entering into the second amendment, then it should authorize the City Manager to sign the document on behalf of the City.

*Mr. Chohany Moved That City Council Authorize the City Manager to Execute the Second Amendment to the Fourth Centrum of Virginia Inc., Contract on Behalf of the City. The Motion Was Seconded by Mr. Haulman.*

*Recorded Vote on the Motion:*

*Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany*

*No: None*

## **OPEN FORUM**

Mayor Zeidler asked for public comment.

**Jane Rackley, 627 Powell Street**, asked for Council's assistance regarding a gazebo in a neighboring yard, and the site of a bed and breakfast establishment, that is proposed to be moved closer to residential homes than it will be to the business. The ARB told her that the use of the gazebo is not under their purview. She understands that up to 12 weddings a year can be held in the gazebo, and she does not want the intrusion and noise near her home.

Mayor Zeidler asked Mr. Nester to provide Council with more information about the issue. No one else wished to speak. The session was closed.

## **CLOSED SESSION**

Mr. Haulman Moved that City Council go into Closed Session pursuant to Section 2.2-3711 A-30 of the Code of Virginia for the purpose of discussing one Legal matter per subparagraph 7 for the purpose of discussion of the award of a public contract involving the expenditure of public funds, the discussion of which in open session would adversely effect the bargaining position or negotiating strategy of the public body. The Motion Was Seconded by Mr. Chohany.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany

No: None

The meeting adjourned at 5:15 p.m. The Mayor called a five-minute recess.

At 5:46 p.m. Council met in Open Session.

Mr. Haulman Moved the Certification of Closed Meeting. The Motion was Seconded by Mr. Chohany.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany

No: None

**CERTIFICATION OF CLOSED MEETING**

Date: January 9, 2006

Motion: Mr. Haulman; Second: Mr. Chohany

WHEREAS, the City Council of the City of Williamsburg has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by the City Council that such meeting was conducted in conformity with Virginia Law.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Williamsburg hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed session were heard, discussed or considered by the City of Williamsburg.

VOTE:

Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany

No: None

Absent During Vote: None

Absent During Meeting: None

The meeting adjourned at 5:47 p.m.

Approved: February 9, 2006

Jeanne Zeidler, Mayor

Shelia Y. Crist  
Clerk of Council